

**United States District Court**  
For the Northern District of California

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6 IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

9

RAMA DIOP,

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Plaintiff,

No. C 12-06332 JSW

11

v.

**ORDER DISMISSING SECOND  
AMENDED COMPLAINT WITH  
LEAVE TO AMEND**

12

COUNTY OF MARIN, ET AL.

13

Defendants.

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15 This matter comes before the Court upon consideration of Plaintiff's Second Amended  
16 Complaint. Plaintiff is proceeding *pro se*, and the Court granted her motion to proceed *in forma*  
17 *pauperis*. Under 28 U.S.C. Section 1915(e)(2)(B), the Court is required to dismiss an action that  
18 is frivolous or fails to state a claim.

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On August 16, 2013, Judge Phyllis J. Hamilton issued an Order dismissing Plaintiff's  
First Amended Complaint for failure to state a claim, ordered that this matter be transferred to  
the San Francisco division, and directed Plaintiff to file an amended complaint by September  
18, 2013. The matter was then reassigned to this Court.

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Federal Rule of Civil Procedure 8 ("Rule 8") requires plaintiffs to "plead a short and  
plain statement of the elements of his or her claim." *Bautista v. Los Angeles County*, 216 F.3d  
837, 840 (9th Cir. 2000). Rule 8 requires each allegation to be "simple, concise, and direct."  
Fed. R. Civ. P. 8(d)(1). Where the allegations in a complaint are "argumentative, prolix, replete  
with redundancy and largely irrelevant," the complaint is properly dismissed for failure to  
comply with Rule 8(a). *McHenry v. Renne*, 84 F.3d 1172, 1177, 1178-79 (9th Cir. 1996); see

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1       also *Nevijel v. North Coast Life Ins. Co.*, 651 F.2d 671, 673-74 (9th Cir. 1981) (affirming  
2       dismissal of complaint that was “ ‘verbose, confusing and almost entirely conclusory’ ”).  
3       “Something labeled a complaint but ... prolix in evidentiary detail, yet without simplicity,  
4       conciseness and clarity as to whom plaintiffs are suing for what wrongs, fails to perform the  
5       essential functions of a complaint,” and “impose[s] unfair burdens on litigants and judges.”  
6       *McHenry*, 84 F.3d at 1179-80.

7           A complaint that fails to comply with Rule 8 may be dismissed with prejudice pursuant  
8       to Federal Rule of Civil Procedure 41(b). “The propriety of dismissal for failure to comply with  
9       Rule 8 does not depend on whether the complaint is wholly without merit.” *McHenry* 84 F.3d  
10      at 1179. Even if the factual elements of the cause of action are present, but are scattered  
11     throughout the complaint and are not organized into a “short and plain statement of the claim,”  
12     dismissal for failure to satisfy Rule 8 is proper. *Id.* at 1178.

13           Plaintiff’s Second Amended Complaint comprises 62 pages of single spaced allegations,  
14       and she has attached voluminous exhibits in support of her allegations. Plaintiff has attempted  
15       to comply with the prior orders that required her to separate each cause of action into separate  
16       paragraphs, and she has attempted to clarify which causes of action are asserted against each  
17       Defendant. However, in her efforts to set forth more than conclusory allegations, Plaintiff has  
18       failed to plead a short and plain statement of her claims. Once again, although Plaintiff includes  
19       allegations that various judges, commissioners and referees violated her rights, issued  
20       unfavorable decisions, and conspired against her, it is impossible for the Court to discern  
21       whether it has jurisdiction over many of these claims or whether Plaintiffs’ claims would be  
22       barred based on doctrines of immunity. Accordingly, the Court DISMISSES, WITHOUT  
23       PREJUDICE, the Second Amended Complaint.

24           The Court shall give Plaintiff one final opportunity to file a complaint, which complies  
25       with Rule 8, and which clearly and concisely sets forth the factual allegations supporting her  
26       claims. It is FURTHER ORDERED that if Plaintiff files a third amended complaint, she shall:

27           1.       Identify all named defendants in the caption of the third amended complaint.  
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- 1           2. Plaintiff shall separate her factual allegations by paragraphs and shall use  
2           paragraph numbers throughout the third amended complaint.  
3           3. Plaintiff shall include a section that sets forth the basis on which she contends  
4           this Court has jurisdiction.  
5           4. Plaintiff shall include a separate section that identifies, by separate paragraph,  
6           each and every person or entity who is a named defendant in the case.  
7           5. As in her Second Amended Complaint, Plaintiff shall clearly label each cause of  
8           action she asserts and clearly specify which defendants are named in that cause  
9           of action.

10          Plaintiff shall file the third amended complaint permitted by this Order by no later than  
11 January 31, 2014. If Plaintiff fails to file a third amended complaint by that date, the Court  
12 shall dismiss this case with prejudice.

13          Finally, the Court once again HEREBY ADVISES Plaintiff that a Handbook for Pro Se  
14 Litigants, which contains helpful information about proceeding without an attorney, is available  
15 through the Court's website or in the Clerk's office. The Court also advises Plaintiff that she  
16 also may wish to seek assistance from the Legal Help Center. Plaintiff may call the Legal Help  
17 Center at 415-782-8982 or sign up on the 15th Floor of the Courthouse, Room 2796, for a free  
18 appointment with an attorney who may be able to provide basic legal help, but not legal  
19 representation.

20          **IT IS SO ORDERED.**

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22 Dated: December 17, 2013

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JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

RAMA DIOP.

Case Number: CV12-06332 JSW

Plaintiff,

## CERTIFICATE OF SERVICE

v.

## COUNTY OF MARINE et al,

**Defendant.**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

13 That on December 17, 2013, I SERVED a true and correct copy(ies) of the attached, by  
14 placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter  
listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an  
inter-office delivery receptacle located in the Clerk's office.

17 Rama Diop  
527 Hillside Avenue  
18 Mill Valley, CA 94941

19 | Dated: December 17, 2013

Jennifer Ottolini  
Biology W. W. W. Class

Richard W. Wiekling, Clerk  
By: Jennifer Ottolini, Deputy Clerk